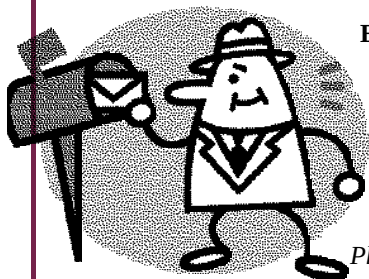


LEGAL MAILBAG

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Editor's Note: As part of a new feature in the *BULLETIN*, we invite readers to submit short, law-related questions of practical concern to school administrators. Each month we will select questions and publish answers. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to:

legalmailbag@casciac.org.

Q. Dear Mailbag: Last week I got an anonymous telephone call, and the caller told me that one of my students is an illegal immigrant and should be expelled. I know enough not to rely on anonymous callers, but when I talked to the student (who is in third grade), he readily admitted that his father told him not to say anything to anybody because his family is here illegally. I don't want to break the law, but it would pain me greatly if I had to turn this fine young man in to the authorities. Must I?
No Tattletale

A. Dear No: You do not have to inform the authorities, and whether or not to do so is a business judgment. Disclosing information about students is generally subject to the restrictions set out in FERPA, the federal law that prohibits disclosure of personally identifiable student information. Here, however, the information you received is not contained in the student's records, but rather was received from an outside source. Accordingly, should you so choose, you could disclose the call to the INS so that it may investigate. In any event, the student remains entitled to school accommodations. As long as the student is actually residing in your district, his immigration status is not relevant for the purposes of school accommodations.

Q. Dear Mailbag: One of our special education students wants to participate on the football team. He is physically disabled and couldn't possibly compete on the team, so the PPT decided to make him the manager of the team. What they forgot, however, is that he has special transportation that leaves right after school. What's the best way to break it to him and his parents that he can't participate?
Just Being Practical

A. Dear Practical: You will have to rethink your position. Under IDEA '97, the PPT is responsible for making provision for students to participate in extracurricular activities. It is important for the members of the PPT to be realistic in meeting this responsibility. Moreover, it is advisable not to include the specifics of the activity in the IEP, because any promise made in the IEP is binding and subject to the "stay-put" provisions of IDEA if there is disagreement over changing the activity. Here, the actions of the PPT are binding. Absent parent agreement to change the IEP, you are, in a word, stuck.

Q. Dear Legal Mailbag: The board of education is all worried that the curriculum is outdated, and it created this stupid committee of parents and teachers to develop recommendations for change. Unfortunately, the superintendent named me chair of this committee, like I didn't have enough to do. Last night, we were just getting started when this rude reporter from the local rag showed up and insisted that we had to let her attend our meeting. She was very stubborn, and I almost had to use physical force to get her to leave. She can't crash the "party," can she?
Concerned Conscript

A. Dear Concerned: The Freedom of Information Act (FOIA) gives people, which includes reporters, the right to attend public meetings. The law was expanded some years back to provide that a committee meeting is a public meeting if the committee is "of, or created by" a public agency. Therefore, any curriculum committees, technology committees, search committees and other parent committees created by a board of education are subject to the requirements of the Freedom of Information Act, which include posting and public access. Significantly, this result obtains even if a minority (or none) of the committee members are members of the board of education. In your case, the public (including the reporter) may attend meetings of the curriculum committee, except for those portions of meetings privileged to executive session (if the business of the committee would ever involve such a topic). A letter of apology, or perhaps even lunch with the reporter, may be necessary to avoid a complaint with the Freedom of Information Commission. Be brave.